

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-217536

DATE: May 14, 1985

MATTER OF: World Maintenance Services, Inc.

DIGEST:

1. Protester's objection that operations overhead under in-house estimate for Office of Management and Budget (OMB) A-76 cost comparison is understated is denied. Agency finding that seven positions at issue will continue in the event of conversion to commercial contractor and that conversion thus will not result in eliminating some of these jobs and saving the government money does not violate cost comparison guidelines and protester's disagreement with agency finding is insufficient to show unreasonableness of agency determination. The projection of personnel changes resulting from conversion is largely judgmental matter.
2. GAO will decline to review an allegation that a particular aspect of a contracting agency's cost comparison was faulty if the protester failed to raise objection in an appeal with that agency.

World Maintenance Services, Inc. (World), protests the Navy's determination that the Navy could perform operations and maintenance of transportation heavy equipment for a 5-year period at the Navy Public Works Center, Pensacola, Florida, at a lower cost than World based on a comparison of World's bid under invitation for bids (IFB) No. N62467-84-B-2138 with an in-house government estimate prepared by the Navy.

We deny the protest in part and dismiss it in part.

World argues that an additional \$500,000 should have been added to the in-house operations overhead cost estimate and, as a result, World's bid would have been significantly lower than the in-house estimate. Specifically, World

states that the Navy records supporting the government estimate show that seven positions contribute one-half of their time to accomplish the performance work statement under this IFB. These positions perform the other half of their time in support of the vehicle operations and maintenance section, which is not subject to this cost study, and provides no services or supervision to the contractor. World disagrees that these positions must be retained as full-time employees as the Navy has costed them because it, in effect, charges the contractor for the Navy's inefficient management. World reasons that, since the workers would be idle 50 percent of the time if the IFB work is not performed in-house, the Navy would be compelled to consolidate jobs or otherwise seek ways to efficiently manage these under-utilized personnel.

The Navy points out the Office of Management and Budget (OMB) A-76 cost comparison handbook provides the method for computing overhead costs. The method essentially is to first evaluate the supervisory work center one element above the function under study to determine the number of full-time labor years of overhead that would be eliminated by converting the function to contract. Where there is no full labor year affected, the operations overhead cost is zero. For the appeals board decision denying World's objection, the Navy analyzed the seven overhead positions and stated that:

"Based on the on-site analysis of the overhead functions [of the seven positions], it is impossible to combine duties of these overhead positions due to the remaining workload requirements, diversity of position responsibilities and job classifications, and the necessity for different physical locations of these positions in the transportation facilities based on functional requirements. Therefore, no full time position in the operations overhead area could be eliminated if the function were converted to contract. Accordingly, the exclusion of operations overhead costs in this cost study is considered proper. . . ."

Although we have recognized that the underlying determination involved in cost comparisons, whether work should be performed in-house by government personnel or

performed by a contractor, is one which is a matter of executive branch policy and not within our protest function, we have stated that where, as here, a contracting agency utilizes the procurement system to aid in its determination of whether to contract out, by spelling out in the solicitation the circumstances under which a contractor will or will not be awarded a contract, a protest from a bidder alleging that its bid has been arbitrarily rejected will be considered by our Office. See Jets, Inc., 59 Comp. Gen. 264 (1980), 80-1 C.P.D. ¶ 152.

The relevant portions of the cost comparison handbook are as follows:

"G. OVERHEAD COSTS - Line 4

1. Overview.

a. Costs incurred in support of the function under study, not 100 percent allocable to that function, will be classified as overhead. . . .

b. For the purposes of this Handbook, overhead will be captured into two major categories by using the proper elements of cost Include only those costs that will not continue in the event of contract performance. The first overhead category will be Operations Overhead and is defined as those costs incurred by the first supervisory work center one element above and in support of the function under study. The second overhead category will be General and Administrative Overhead and is defined as all support costs, other than operations overhead, incurred in support of the function under study." (Emphasis in original.)

There is also more detailed guidance as to calculating operations overhead and general and administrative overhead; however, the basic principle essentially requires that the agency must determine if at least one position would be eliminated from either supervisory staff or support staff from the conversion to contract. In the event no positions can be eliminated, overhead costs are zero. The Navy here

concluded that no positions could be eliminated in this case and, thus, the Navy excluded the cost of such positions from its cost study.

World agrees that at least three supervisory function positions under operations overhead will continue regardless of whether the function is contracted out. However, World argues that, since the duties for these positions have been reduced 50 percent, the personnel rules would require these jobs to be reduced in pay or otherwise consolidated and these savings should be costed under overhead savings, thus raising the Navy estimate. While savings ultimately might result from contracting out from the reduction in these jobs, the cost comparison provides for adding these conversion costs to the government estimate where a full-time or part-time position is eliminated. Thus, since the agency reports that the positions would survive a conversion, the Navy determination not to include the costs of the less than full-time workers did not violate the applicable A-76 guidance.

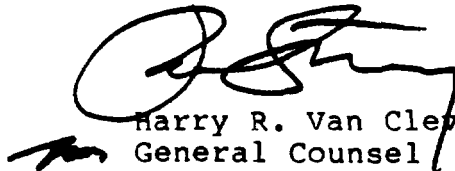
To the extent World disputes the Navy finding that no positions will be eliminated and, thus, no savings in this regard will occur from conversion, we have held that the projection of personnel changes resulting from a conversion is largely a judgmental matter. Mercury Consolidated, Inc., 63 Comp. Gen. 411 (1984), 84-1 C.P.D. ¶ 612. While World may disagree with the Navy's conclusion that all seven positions will be retained after conversion, that does not mean that the Navy's judgment was unreasonable.

In its submissions to this Office, the protester for the first time argues that the government in-house cost estimate understated personnel costs for performing the work under the solicitation because the Navy improperly considered four of the seven positions under operations overhead and failed to cost them properly under personnel costs in the cost study.

We will not consider this argument since the protester failed to raise it in its appeal to the contracting agency. See Dyneteria, Inc., B-205487, June 1, 1982, 82-1 C.P.D. ¶ 506. Because the pertinent procurement regulation provides that an affected party may request a review of the government's calculations and requires the government to

respond, Federal Acquisition Regulation, 48 C.F.R. § 7.305 (1984), we have held that we will not review a protest against a cost comparison unless the protester has exhausted this relative speedy administrative remedy available with the contracting agency itself. JAC Management, Inc., 60 Comp. Gen. 372 (1981), 81-1 C.P.D. ¶ 274. Moreover, the regulation and mandatory clause in the solicitation (clause 25 of section 00001) requires that any objections raised or appealed must be specific. We therefore will decline to review any objections to a cost comparison not specifically appealed to the contracting agency. Samsel Services Co., B-213828, Sept. 5, 1984, 84-2 C.P.D. ¶ 257.

While World did argue in its initial appeal that the Navy had underestimated personnel costs because it failed to consider the cost of workman's compensation for temporary employees and this matter was corrected on appeal, World did not object to the adequacy of the projected staffing to meet the performance work statement. World also did not object to the designation of the seven positions as operations overhead, but instead disputed the Navy's statement that all seven positions would be retained after a conversion, and argued that \$500,000 should have been added to this line item. Information obtained by the protester from its Freedom of Information Act request filed at the same time it filed its protest constituted further support for an objection which it could have and should have made to the appeals board. We decline to consider these objections not raised with the agency initially. Dyneteria, Inc., B-205487, supra.


Harry R. Van Cleve
General Counsel